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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,101	03/30/2001	Jason Pluta	DEX-0205	4789

26259 7590 11/27/2001

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MARLTON, NJ 08053

EXAMINER
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DAVIS, NATALIE A

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 11/27/2001

6

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/823,101

Applicant(s)

PLUTA ET AL.

Examiner

Natalie A. Davis

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 September 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-25 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-6, and 19, drawn to a nucleic acid molecule, antisense oligonucleotide vector, host cell, and method of making a protein, classified in class 536, subclass 23.1.
  - II. Claims 7, 9 and 23, drawn to a polypeptide and vaccine, classified in class 530, subclass 350.
  - III. Claim 8, drawn to an antibody, classified in class 530, subclass 387.1.
  - IV. Claims 10-14, drawn to a method of diagnosing, staging, and monitoring stomach cancer, classified in class 435, subclass 7.1.
  - V. Claim 15, drawn to method of identifying potential therapeutic agents, classified in class 435, subclass 4.
  - VI. Claims 16-17, drawn to a method of imaging stomach cancer using an antibody, classified in class 424, subclass 1.49.
  - VII. Claim 18-19, drawn to a method of treating stomach cancer, classified in class 424, subclass 183.1.
  - VIII. Claims 20, drawn to a method of identifying a compound that antagonizes or agonizes the SSG polypeptide, classified in class 435, subclass 7.1.
  - IX. Claim 21, SSG polypeptide agonist, classified in class 530, subclass 350.
  - X. Claim 22, SSG polypeptide antagonist, classified in class 530, subclass 350.
  - XI. Claims 24-25, a method of inducing an immune response and treating stomach cancer using a vaccine, classified in class 424, subclass 184.1.
- A. In the event applicant elects Group I, applicant is required to elect a single species of nucleic acid sequence, comprising:
  - Species A, drawn to SEQ ID NO: 1
  - Species B, drawn to SEQ ID NO: 2
  - Species C, drawn to SEQ ID NO: 3

Species D, drawn to SEQ ID NO: 4  
Species E, drawn to SEQ ID NO: 5  
Species F, drawn to SEQ ID NO: 6  
Species G, drawn to SEQ ID NO: 7  
Species H, drawn to SEQ ID NO: 8  
Species I, drawn to SEQ ID NO: 9  
Species J, drawn to SEQ ID NO: 10  
Species K, drawn to SEQ ID NO: 11  
Species L, drawn to SEQ ID NO: 12  
Species M, drawn to SEQ ID NO: 13

Species A-M are patentably distinct based on structural and functional differences and mode of action, as species may target different receptors.

The inventions are distinct, each from the other because of the following reasons:

2. The Inventions of Groups I-III and IX-X (products) and IV-VIII and XI (methods) are related as products and processes of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the products of Groups I-III may be used for a number of different processes that are very much unrelated. For example, the polypeptide of Group II may not only be used in the method of Group IV and VIII, but may also be used for affinity purification. Likewise, the antibody of Group III may be used for immunopurification and not just in the methods of Groups V-VI. Furthermore, the invention of Group I, may be used to make a protein and not only in the method of Group XI.
3. The products of Groups I-III and IX-X are drawn to structurally and functionally different molecules with different immunological properties, each invention requires different reagents and steps to make and characterize it.

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4. The methods of Groups IV-VIII relate to methods but each method differs in method steps, modes of operation, reagents needed and serve different endpoints and effects.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, divergent subject matter, and require different search strategies, restriction for examination purposes as indicated is proper.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Davis whose telephone number is 703-308-6410. The examiner can normally be reached on M-F 8-5:30 (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa can be reached on 703-308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4315 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Natalie A. Davis  
November 5, 2001



**GEETHA P. BANSAL**  
**PRIMARY EXAMINER**